

**MEMORANDUM REGARDING ALLOWANCE OF COMPENSATION
AND REIMBURSEMENT OF EXPENSES
FOR COURT-APPOINTED PROFESSIONALS**

AS AMENDED EFFECTIVE JANUARY 1, 2006

Parties in interest have continued to lodge objections to applications for the allowance of compensation and reimbursement of expenses. In an attempt to reduce the number of these objections, the judges of this court have determined that it is in the interests of all debtors, creditors, their respective attorneys, and other parties in interest, including the United States Trustee, that the following general guidelines respecting the context of fee applications be established and published.

1. Professional persons are appointed by the United States Bankruptcy Court for the Western District of Michigan, pursuant to 11 U.S.C. §§ 328 and 330(a)(1) and FED. R. BANKR. P. 2016. The burden of proof regarding all fee applications submitted by court-appointed professionals is imposed upon the applicant.
2. An application must succinctly itemize each activity, the date of the activity, the professional who performed the work, a description of both the nature and substance of the work, and the time expended thereon. Records providing no explanation of activities performed will be deemed inadequate and therefore noncompensable.
3. In order for time spent on activities such as court appearances, preparation for court appearances, conferences, telephone calls, drafting documents, and research to be compensable, the nature and purpose of the activity must be noted. Time entries for telephone calls must list the person with whom the applicant spoke and give a brief description of the conversation. Time entries for correspondence must state the addressee and give a brief explanation of the contents. Time entries involving documents must specify the specific document. Time entries for legal research must describe the matter or proceeding researched, and the general legal issue.
4. Applicants shall not attempt to circumvent minimum time requirements or any detail requirement by "lumping" or "bunching" a number of activities into a single entry. Each type of service must be listed with a corresponding specific time allotted.
5. Time entries with unexplained abbreviations are noncompensable. (Where abbreviations are used, an appendix explaining the abbreviations shall be attached.) Where computer time sheets are submitted to substantiate entries, a code key must be supplied, or the application will not be considered. In more complex petitions, a glossary of persons involved may be helpful.

6. All applications shall state the case filing date, the chapter, whether conversion has occurred, and the date of conversion. The application must state the amount of any retainer paid, as well as the date of each previous application, the amount of compensation and expenses requested, the amount of compensation and expenses approved, the date of approval, and the amount received. The application must also indicate the total hours charged and give a summary of the hours and hourly rate charged by each professional.
7. If more than one professional has charged time for activities such as intra-office conferences or joint court appearances, the applicant must explain the need for each professional's participation in the activity.
8. All time listed must represent the actual time required to perform the activity and should be stated in tenths (.10) of an hour. "Rounding up" of time or minimum time increments of .25 hours is not permitted.
9. The rates charged must be commensurate with the level of skill required for a particular task; for example, attorney rates or paralegal rates may not be charged for nonlegal work, such as copying or delivering documents, preparing or filing proofs of service, or for trustee duties generally performed without the assistance of an attorney. When paralegals are utilized to perform legal services for an estate, they may be compensated as paraprofessionals rather than treated as an overhead expense.
10. No fees shall be allowed for general research on law well known to practitioners in the area of law involved.
11. Reasonable time spent by an attorney in preparing and reviewing an application for compensation may be compensable.
12. The court will consider whether tasks performed within a reasonable number of hours and whether the requested hourly rate is reasonable based upon the customary rate charged by experienced practitioners.
13. The court will not allow compensation for services which do not benefit the debtor's estate; for example, fees for reading the work product of another attorney simply as a matter of interest or performing legal services mainly beneficial to the debtor, or the debtor's principals.
14. An application for reimbursement of expenses must explicitly list each expense, its date incurred/paid, and a description of the nature and purpose of the expense. For example, requests for mileage must include the date, destination, miles, per mile rate, and the reason for the trip. Professionals should utilize the most economical method for necessary expenses; for example, coach air fare moderately priced accommodations, and commercial firm duplication for large numbers of copies. Courier service, express mail service and fax transmissions

should not be used routinely, but, if used, should be as a result of justifiable reasons including time constraints.

15. In chapter 13 cases filed prior to October 17, 2005, the court may approve compensation of a debtor's attorney in an amount not to exceed \$1,800.00 for services rendered through confirmation, without the necessity of filing an itemized statement of services rendered, provided an agreement is filed with the court which sets forth the agreed-upon fee for such pre-confirmation services. This is not an "entitlement;" in simple straightforward consumer cases, an attorney should request less than the \$1,800.00 "no look" fee. The required agreement shall be executed between the debtor and the debtor's attorney. If services with a reasonable value in excess of \$1,800.00 are preformed for which the attorney wishes payment, the attorney shall file an itemized fee application as required herein covering both the initial \$1,800.00 awarded (summarized from the commencement of representation) as well as the additional fees requested. Once reviewed, the court may award fees in excess of \$1,800.00.
16. Due to the additional work required by the Bankruptcy Abuse Prevention and Consumer Protection Act (BAPCPA) to shepherd a chapter 13 case through confirmation, and the court's extreme interest in promoting and rewarding attorney education, the court shall implement an experimental one year sliding scale program for the awarding of chapter 13 debtor attorney's fees in chapter 13 cases filed on or after October 17, 2005. Commencing January 1, 2006 and ending December 31, 2006, the court may approve a "no look" fee in an amount not to exceed \$2,400.00 for services rendered through confirmation. Attorneys who have and continue to attend bankruptcy educational seminars during the year immediately prior to the date the chapter 13 was filed and who certify in writing as to the seminar(s) attended, e.g., FBA Bankruptcy Seminar, ABI Central States, etc., and thus have attained chapter 13 expertise, may be awarded a "no look" fee up to \$2,600.00 for services rendered through confirmation. Attorneys who are or become certified by the American Board of Certification ("ABC") may be awarded a "no look" fee up to \$2,900.00. These fees are not "entitlements" as there still may be simple straightforward consumer cases in which the attorney should request and will be awarded less than the "no look" fees referenced here. As indicated in Paragraph 15, attorneys are still required to file with the court a copy of the fee agreement executed between the debtor and the debtor's attorney. If services are performed with a reasonable value in excess of these "no look" fees and are documented by the filing of an itemized fee application covering both the initial "no look" fee awarded and the additional fees requested, upon review, the court may award fees in excess of the "no look" fees here referenced.
17. The court may consider applications for fees and expenses on a notice and opportunity to object basis as authorized by the Local Bankruptcy Rules for the Bankruptcy Court for the Western District of Michigan. The court may, sua sponte and without notice of hearing, or upon the motion of any party in interest


or the United States Trustee after notice and hearing, order that payment of all, or some portion of, allowed interim fees be withheld for a specified period of time. Whenever payment of an applicant's fee has been deferred by the court without a hearing, that applicant may file at any time a motion to rescind or modify deferral. Motions to rescind or modify deferral shall be set for hearing.

18. *Attorneys should keep in mind that in most cases the reasonableness of the work done and the fee charged will depend upon the results attained. A part of the service to be performed by an attorney is to estimate, as to each prospective matter or proceeding, the probability of success, the amount to be realized and the overall benefit to creditors.*

The court will consider applications for allowance of compensation and reimbursement of expenses which comport with the guidelines set forth in this memorandum.


Honorable Jo Ann C. Stevenson
Chief U.S. Bankruptcy Judge

Honorable James D. Gregg
U.S. Bankruptcy Judge


Honorable Jeffrey R. Hughes
U.S. Bankruptcy Judge